

Message Text

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C O N F I D E N T I A L LIMA 6523

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E.O. 11652: GDS
TAGS: SOPN PE
SUBJ: GOP PROMULGATES NEW PRESS LAW

REF: LIMA 5741

BEGIN UNCLASSIFIED:

1. THE GOP ISSUED THE LONG-AWAITED NEW PRESS LAW ON
JULY 19, 1978, THE MOST IMPORTANT POINTS OF WHICH ARE:

A) MASS CIRCULATION DAILIES (MORE THAN 30,000 PER
EDITION) MUST BE OWNED BY CORPORATIONS; MUST HAVE A
CAPITAL OF S/100,000,000 (US\$627,786 AT PRESENT OFFICIAL
EXCHANGE) WITH EACH SHARE HAVING A FACE VALUE OF S/1,000;
MUST BE OWNED BY PERUVIAN CITIZENS BY BIRTH; AND WILL
BE MANAGED BY A BOARD OF DIRECTORS CONSTITING OF EIGHT
PERSONS, TWO REPRESENTING THE EMPLOYEES AND THE REMAINING
SIX ELECTED BY THE SHAREHOLDERS.

B) THE FORMER OWNERS OF THE PAPERS WILL BE PAID
(THE LAW DOES NOT SPECIFY CASH OR BONDS) THE VALUE OF
THE ENTERPRISE AS OF THE DATE OF EXPROPRIATION (JULY 26,
1974) WITHIN A PERIOD OF 360 DAYS. THE VALUE WILL BE
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ESTABLISHED IN ACCORDANCE WITH ESTABLISHED NORMS, "DULY
UPDATED" AS APPLIED BY GOP "EXPERTS".

C) FORMER OWNERS WILL BE OFFERED THE OPPORTUNITY
TO BUY UP TO 25 0/0 OF THE NEW AHRES AND EMPLOYEES, EITHER
INDIVIDUALLY OR AS A GROUP, WILL HAVE THE SAME OPTION.
THE REMAINING 50 0/0 WILL BE SOLD TO THE PUBLIC ON THE STOCK

EXCHANGE WITH THE PROVISIO THAT, WITH THE EXCEPTION OF THE FORMER OWNERS, NO INDIVIDUAL MAY OWN MORE THAN 5 0/0 OF THE STOCK. PENALTIES FOR ATTEMPTED EVASION OF THIS RESTRICTION INCLUDE UP TO THREE MONTHS IN PRISON PLUS A FINE.

D) DURING A TRANSITION PERIOD OF 180 DAYS, THE MANAGEMENT WILL BE OVERSEEN BY A SIX-PERSON BOARD OF DIRECTORS HAVING THREE MEMBERS FROM THE CORPORACION FINANCIERA DE DESAROLLO (COFIDE), ONE FROM CONASEV (COMISION NACIONAL SUPERVISORA DE EMPRESAS Y VALORES), THE GOP-NAMED DIRECTOR OF THE PAPER AND A LABOR REPRESENTATIVE.

E) AFTER THE 180 DAYS, THE NEW BOARDS OF DIRECTORS AND THE DIRECTOR OF THE PAPER WILL BE ELECTED FOR A TERM OF TWO YEARS AND MAY BE REELECTED FOR AN EQUAL TERM.

F) ARTICLE 18 PROVIDES FOR AN AUTOMATIC ANNUAL CAPITALIZATION OF 10 0/0 OF NET PROFITS, THE VALUE OF WHICH WILL BE PLACED ON THE MARKET. PROCEEDS FROM THE SALE OF THESE NEW ISSUES WILL BE DISTRIBUTED PROPORTIONATELY, ALONG WITH REGULAR DIVIDENDS, TO STOCK HOLDERS. THE APPARENT INTENT IS TO SET UP A MECHANISM FOR AN AUTOMATIC ANNUAL INCREASE/PARTIAL RENEWAL OF SHARE HOLDERS TO INSURE THAT A PLURALITY OF INTERESTS IS CONFIDENTIAL

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REPRESENTED ON THE PAPERS' BOARDS.

G) NEW MASS CIRCULATION DAILIES MAY BE STARTED AT ANY TIME UNDER THE CONDITIONS LISTED ABOVE WITH THE EXCEPTION THAT 75 0/0 OF THE STOCK MUST BE OFFERED ON THE STOCK EXCHANGE.

H) PENALTIES ARE PROVIDED FOR SLANDER, PUBLISHING STATE SECRETS AND PUBLISHING "FRAUDULENT DOCUMENTS." THE PENALTIES RANGE FROM THIRTY DAYS TO TWO YEARS IMPRISONMENT BUT ARE SUBJECT TO THE CIVIL COURTS AND NOT THE MILITARY.

I) "REGIONAL" PAPERS, LIMITED CIRCULATION PAPERS AND ALL NON-DAILY PUBLICATIONS ARE ENCOURAGED BY HAVING MUCH LOWER CAPITAL REQUIREMENTS AND, IN THE CASE OF THE REGIONALS, BEING EXEMPTED FROM CERTAIN TAXES FOR UP TO FIVE YEARS.

J) NEWS PROGRAMS AND EDITORIALS ON RADIO AND TV ARE PLACED UNDER THE SAME RULES AS THE PAPERS, WHERE PERTINENT.

K) THE MINISTER OF INTERIOR MAY PROHIBIT THE IMPORTATION AND SALE OF ALL FOREIGN PERIODICALS WHICH OFFEND PERUVIAN "INTEGRITY, SECURITY OR SOVEREIGNTY OR ARE COUNTER TO MORALS AND CUSTOM OR WHICH ENCOURAGE CRIME".

1) THE TWO GOP PAPERS EL PERUANO AND LA CRONICA ARE EXEMPT FROM THE LAW AND REMAIN OFFICIAL GOVERNMENT PUBLICATIONS. END UNCLASSIFIED

BEGIN CONFIDENTIAL:

2. COMMENT: AS PREDICTED (REFTEL) THE GOP IS TRYING TO TIE UP THE LAST OF THE MILITARY GOVERNMENT'S LOOSE CONFIDENTIAL

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ENDS, BEFORE THE BEGINNING OF DELIBERATION OF THE CONSTITUENT ASSEMBLY AND THE RETURN TO CIVILIAN RULE. ALTHOUGH A "REGLAMENTO" WILL BE PUBLISHED IN THE FUTURE, FOR THE MOMENT THE LAW IS INTERESTING FOR WHAT IT FAILS TO CLARIFY. IT IS UNCERTAIN IF THE FORMER SHARE HOLDERS WILL BE COMPENSATED IN CASH, IN SPECIAL COFIDE BONDS, OR A COMBINATION OF THE TWO. THE PROCESS FOR EVALUATION OF THE VALUE OF THE CORPORATION AS OF JULY 26, 1974, (THE DAY VELASCO EXPROPRIATED THE PRESS) IS VAGUE AND IS CERTAIN TO CAUSE CONTROVERSY. ASSUMING THAT THE FORMER MAJORITY SHARE HOLDERS (FOR EXAMPLE THE MIRO QUESADAS IN THE CASE OF "EL COMERCIO") ARE INDEMNIFIED WITH COFIDE BONDS, (MOST LIKELY IN OUR ESTIMATION) IT IS UNCLEAR WHAT THEY WILL BE ABLE TO DO WITH THE AMOUNT IN EXCESS OF WHAT THEY ARE LEGALLY PERMITTED TO INVEST IN THE RESTRUCTURED PAPERS. IF THE BONDS ARE NEGOTIABLE, THE FORMER OWNERS COULD THEORETICALLY ACQUIRE INTERESTS IN A NUMBER OF PAPERS, UP TO THE MAXIMUM ALLOWABLE BY LAW. THE NEW LAW MAKES NO MENTION OF JOB SECURITY FOR WORKERS, AFTER THE 180-DAY TRANSITION PERIOD, THIS OMISSION COULD GIVE RISE TO MASSIVE FIRING OF WORKERS IDENTIFIED WITH THE GOP-CONTROLLED MANAGEMENT, JUST AS LARGE NUMBERS OF THOSE WHO IDENTIFIED WITH THE PRE-1974 OWNERS WERE DISMISSED. GIVEN THE FACT THAT ONLY "EL COMERCIO" IS CURRENTLY SHOWING A PROFIT AMONG ALL LIMA DAILIES, IT IS POSSIBLE THAT MANY FORMER SHARE HOLDERS AND WORKERS WILL NOT TAKE ADVANTAGE OF THE OPPORTUNITY TO BUY SHARES IN THE RESTRUCTURED PAPERS. IT IS ALSO POSSIBLE THAT THE SHARES PLACED ON THE MARKET WILL NOT SELL WELL GIVEN THE PRESENT ECONOMIC CRISIS. IN THE LONGER RUN, THE PAPERS MAY PROVE TO BE ATTRACTIVE INVESTMENT OPPORTUNITIES, AS THE LESS COMPETITIVE DAILIES ARE ELIMINATED FROM THE MARKET BY COMPETITION, AND CONFIDENTIAL

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THE CONTENTS AND POLITICAL ORIENTATIONS OF THE VARIOUS PAPERS BEGIN TO DIFFERENTIATE THEM. OBVIOUS PROSPECTIVE BUYERS ARE THE POLITICAL PARTIES, BUT THE AMOUNT NECESSARY FOR A PARTY TO GAIN CONTROL MAY BE PROHIBITIVE. GIVEN PRESENT FINANCIAL PROBLEMS WE DO NOT EXPECT A RASH OF NEW PAPERS TO SPRING UP, DESPITE THE RELAXED PROVISIONS OF THE NEW PRESS LAW. DESPITE THE ARTICLES OF THE NEW LAW GUARANTEEING PRESS FREEDOM, THE INTERPRETATION OF THE ARTICLE PENALIZING SLANDER, PUBLICATION OF STATE SECRETS AND FRAUDULENT DOCUMENTS MAY PROVIDE THE FIRST TEST OF PRESS FREEDOM FOR PERU'S RESTRUCTURED NATIONAL PRESS. REACTIONS TO NEW LAW FOLLOW SEPTTEL. TEXT BEING POUCHED TO DEPT, ARA/AND/P AND INR/RAR. SHLAUDEMAM

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